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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**  
**DATED : 24.01.2018**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN**  
**and**  
**THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

**W.A(MD)No.113 of 2018**  
**and**  
**C.M.P(MD)No.564 of 2018**

M.Nallathambi ... Appellant/3<sup>rd</sup> Party  
Vs.

1.Ayyappan ... 1<sup>st</sup> Respondent/Writ Petitioner

2. The Special Tahsildar,  
(Town and Survey),  
Dindigul Town,  
Dindigul District.

3.Chandrasekaran ... Respondents 2 & 3/Respondents 1 & 2

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order, dated 19.09.2014 made in W.P(MD)No.1238 of 2014 on the file of this Court.

Prayer in WP(MD). 1238/ 2014 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records from the 1st respondent in his proceedings in RPOR No.2/2013, dated 26.4.2013 and quash the same and consequently confirm the 1st respondents previous order in Tha.va.Ka. 1260/2013, dated 1.4.2013.

|               |                                                          |
|---------------|----------------------------------------------------------|
| For Appellant | : Mr.T.Lajapathi Roy                                     |
| For R - 1     | : Mr.M.Solaisamy                                         |
| For R - 2     | : Mr.A.K.Baskara Pandian,<br>Special Government Pleader. |
| For R - 3     | : Mr.M.R.Sreenivasan                                     |

**JUDGMENT**

(Judgment of the Court was delivered by  
**M. SATHYANARAYANAN, J. )**

The appellant is the third party to the Writ Petition and according to him, there are three branches, namely Kulandaivel, Rasappan and Arumugam and he belongs to Arumugan branch and in



this appeal, he makes a challenge to the order, dated 19.09.2014 made in W.P(MD)No.1238 of 2014 in and by which, the proceedings of the second respondent herein, dated 26.04.2013 came to be quashed with a further direction to implement his own previous order, dated 01.04.2013.

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2.The facts leading to the filing of this Writ Appeal have been narrated in detail in the Writ Petition and extenso in the impugned order which is the subject matter of this Writ Appeal and hence, it is not necessary to re-state the entire facts once again except to cull out certain facts for the disposal of the Writ Appeal.

3.The father of the first respondent, namely Manickam Servai, along with six others had filed O.S.No.625 of 2000 on the file of the Court of Second Additional District Munsif, Dindigul, praying for a declaration that the suit property exclusively belongs to them and also praying for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the same. One Rajamani and five others had filed O.S.No.648 of 2000 against the father of the first respondent and six others praying for declaration that the suit property belongs to the legal representatives of Andiappan and in that property, choultry and memorial are located and also for permanent injunction. The said Court while common Judgment, dated 25.10.2006 dismissed the suit in O.S.No.625 of 2000 and decreed the suit in O.S.No.648 of 2000.

4.After the dismissal of the suit, Manickam died and the first respondent herein along with other legal representatives of Manickam have filed A.S.Nos.9 and 10 of 2007 aggrieved by the dismissal of the suit in O.S.Nos.648 and 625 of 2000, respectively before the Court of Principal Subordinate Judge, Dindigul. The lower Appellate Court, vide Judgment and Decree, dated 15.11.2010, has partly allowed the appeal suit in A.S.No.9 of 2007 and granted a decree in favour of the appellants in respect of 27 cents of land in T.S.No.381/1 and dismissed the suit in respect of 26 cents of land in T.S.No.381/2 and allowed the appeal suit in A.S.No.10 of 2007. Aggrieved by the same, Second Appeals have been filed by the father of the third respondent herein on the file of this Court and those appeals have been entertained and interim order of status quo is in subsistence.

5.The first respondent/Writ Petitioner had approached the second respondent for transfer of patta in respect of lands in Town Survey Nos.357, 359, 366, 370, 372, 376, 379A, 379B and 381/2 and the second respondent vide proceedings, dated 01.04.2013 has granted joint patta in respect of the lands in Town Survey Nos.357, 359, 366, 370, 372, 376, 379A and 379B as well as to the



6.The third respondent herein aggrieved by the said transfer, moved the second respondent and vide order, dated 26.04.2013, the second respondent, after taking note of the pendency of the Second Appeal and also law and order problem, passed an order of "held over" in respect of his very own order, dated 01.04.2013.

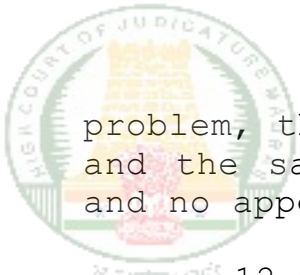
7.The first respondent aggrieved by the said order of the second respondent, dated 01.04.2013 has filed W.P(MD)No.1238 of 2014 and it was entertained and notices were ordered and was taken up for final disposal on 19.09.2014. The learned Single Judge, after going through the materials, found that the order, dated 26.04.2013 passed by the second respondent virtually amounts to reviewing his own order and the same is impermissible and also observed that only if the second respondent succeeds in the Second Appeal, the order of the first respondent would abide by the decree passed by this Court and therefore, set aside the order with a further direction to restore the patta as per the original order of the second respondent, dated 01.04.2013. The appellant being a third party, after obtaining leave, made a challenge to the said order by filing this Writ Appeal.

8.Mr.T.Lajapathi Roy, learned counsel appearing for the appellant/third party would submit that in the light of the fact that the second appeals are pending and the restoration of entry in the patta filed by the first respondent herein is allowed, since the appellant also belongs to one of the branches and thereby entitled to the said property, prays for interference.

9.The learned counsel appearing for the third respondent would submit that his father had filed the Second Appeals and it had been entertained and the status quo order is in operation and in the light of the same, in respect of the land admeasuring to an extent of 26 cents in Survey No.381/2, position as on the date of passing of the order of the second respondent dated 26.04.2013, shall be maintained.

10.Per contra, the learned counsel appearing for the first respondent/writ petitioner would submit that the Court of Principal Subordinate Judge, Dindigul, in the Judgment and Decree, dated 15.11.2010 in A.S.Nos.9 and 10 of 2007 had recorded the categorical finding as to the ownership of the said land in favour of his father (Late Mr.Manickam) and unless the said Judgments are set aside in the pending Second Appeals, it is not open to the appellant as well as the third respondent to contend that till the disposal of the Second Appeals, the original order of the second respondent, dated 26.04.2013 should not be implemented.

<https://hcservices.ecourts.gov.in/Mcse2013> 11.Mr.S.P.K. Baskara Pandian, learned Special Government Pleader appearing for the second respondent would submit that in the light of the pending litigation and apprehending law and order



problem, the second respondent has passed the order of "held over" and the said order has been set aside in W.P(MD)No.1238 of 2014 and no appeal has been filed by the official respondent.

12.This Court has considered the rival submissions made on either side and perused the materials available on record.

13.It is not in dispute that as against the common order, dated 25.10.2006 in O.S.No.625 of 2010 and O.S.No.648 of 2010, two appeals have been filed and A.S.No.10 of 2007 pertains to O.S.No.625 of 2000 and A.S.No.9 of 2007 pertains to O.S.No.648 of 2000. The lower Appellate Court has allowed the Appeal Suit in A.S.No.10 of 2007 and partly allowed A.S.No.9 of 2007 and against which, two Second Appeals are pending and according to the learned counsel appearing for the third respondent herein, an interim order of status quo is in subsistence.

14.As rightly observed out by the learned Single Judge that the second respondent having passed the order, dated 01.04.2013, cannot technically review and stay in his own order and therefore, the said order was rightly set aside by the learned Single Judge. At this juncture, the learned counsel appearing for the appellant as well as the learned counsel appearing for the third respondent prays for leave of this Court to file appeals against the order of the second respondent, dated 01.04.2013.

15.If the appellant and the third respondent are advised so and if it is open to them under law, they may make a challenge to the order of the second respondent, dated 01.04.2013 before the competent forum.

16.This Court, on a consideration and appreciation of the entire materials, is of the considered view that in the light of the settled legal position and in the absence of any specific power for review, the authority cannot review the order or stay the order. This Court is also of the view that there is no error or infirmity in the impugned order and finds no merits in this Writ Appeal.

17.In the result, this Writ Appeal is dismissed, confirming the order, dated 19.09.2014 passed in W.P(MD)No.1238 of 2014, subject to the above observation. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/



To

The Special Tahsildar,  
(Town and Survey),  
Dindigul Town,  
Dindigul District.

+1cc to Mr.T.Lajapathi Roy, Advocate Sr.No.44104  
+1cc to Mr.M.Solaisamy, Advocate Sr.No.44511  
+1cc to Mr.M.R.Sreenivasan, Advocate Sr.No.44302  
+1cc to The Spl.Government Pleader Sr.No.44540

PS/MR

VB/SKN/RSK/SAR2/15.02.2018/5P/6C

**W.A (MD) No.113 of 2018**  
**24.01.2018**